

State of Wisconsin



2015 Senate Bill 325

Date of enactment: April 19, 2016
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2015 WISCONSIN ACT 366

AN ACT to amend 48.355 (2d) (b) 3., 48.415 (9m) (b) 2. a., 48.417 (1) (d), 48.685 (1) (c) 2., 50.065 (1) (e) 1., 50.065 (1) (e) 2., 103.34 (1) (b) 2., 165.84 (7) (ab) 1., 165.84 (7) (ab) 2., 302.11 (1g) (a) 2., 938.355 (2d) (b) 3., 939.62 (2m) (a) 2m. b., 939.632 (1) (e) 1., 939.635, 939.74 (2) (c), 939.74 (2) (cm), 973.0135 (1) (b) 2., 973.015 (1m) (a) 3. a. and 973.017 (6) (b); and to create 343.12 (7) (c) 14m. and 948.03 (5) of the statutes; relating to: repeated acts of physical abuse of the same child and providing a criminal penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.355 (2d) (b) 3. of the statutes is amended to read:

48.355 (2d) (b) 3. That the parent has committed a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), or (5) (a) 1., 2., or 3., or 948.085 or a violation of the law of any other state or federal law, if that violation would be a violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), or (5) (a) 1., 2., or 3., or 948.085 if committed in this state, as evidenced by a final judgment of conviction, and that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or in substantial bodily harm, as defined in s. 939.22 (38), to the child or another child of the parent.

SECTION 2. 48.415 (9m) (b) 2. a. of the statutes is amended to read:

48.415 (9m) (b) 2. a. The commission of a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.19 (2), (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), or (5) (a) 1., 2., or 3., 948.05,

948.051, 948.06, or 948.08, or a violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

SECTION 3. 48.417 (1) (d) of the statutes is amended to read:

48.417 (1) (d) A court of competent jurisdiction has found that the parent has committed a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (3) (a), or (5) (a) 1., 2., or 3., 948.051, or 948.085, a violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or a violation of the law of any other state or federal law, if that violation would be a violation listed under this paragraph if committed in this state, and that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or in substantial bodily harm, as defined in s. 939.22 (38), to the child or another child of the parent. If the circumstances specified in this paragraph apply, the petition shall be filed or joined in within 60 days after the date on which the court assigned to exercise jurisdiction under this chapter determines, based on a finding that a circumstance specified in this paragraph applies, that reasonable efforts to make it possible for the child to return safely to his or her home are not required.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 4. 48.685 (1) (c) 2. of the statutes is amended to read:

48.685 (1) (c) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 942.09 (2), 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53.

SECTION 5. 50.065 (1) (e) 1. of the statutes is amended to read:

50.065 (1) (e) 1. "Serious crime" means a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 or 948.03 (2) (a) or (5) (a) 1., 2., or 3., or a violation of the law of any other state or United States jurisdiction that would be a violation of s. 940.19 (3), 1999 stats., or a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 948.02 (1), 948.025 or 948.03 (2) (a) or (5) (a) 1., 2., or 3. if committed in this state.

SECTION 6. 50.065 (1) (e) 2. of the statutes is amended to read:

50.065 (1) (e) 2. For the purposes of an entity that serves persons under the age of 18, "serious crime" includes a violation of s. 948.02 (2), 948.03 (2) (b) or (c) or (5) (a) 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 or a violation of the law of any other state or United States jurisdiction that would be a violation of s. 948.02 (2), 948.03 (2) (b) or (c) or (5) (a) 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), 948.30, or 948.53 if committed in this state.

SECTION 7. 103.34 (1) (b) 2. of the statutes is amended to read:

103.34 (1) (b) 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.09, 940.10, 940.19 (2), (4), (5), or (6), 940.21, 940.225 (1), (2), or (3), 940.23, 940.235, 940.24, 940.25, 940.30, 940.302, 940.305, 940.31, 943.02, 943.03, 943.04, 943.10, 943.30, 943.31, 943.32, 944.32, 944.34, 946.10, 948.02 (1) or (2), 948.025, 948.03 (2) ~~or (3)~~, or (5) (a) 1., 2., 3., or 4., 948.04, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), or 948.30 or of a substantially similar federal law or law of another state.

SECTION 8. 165.84 (7) (ab) 1. of the statutes, as affected by **2013 Wisconsin Act 214**, is amended to read:

165.84 (7) (ab) 1. A felony violation of s. 940.01, 940.05, 940.21, 940.225 (1), (2), or (3), 940.235, 940.30, 940.302 (2), 940.305, 940.31, 940.32 (2), (2e), or (2m), 940.43, 940.45, 941.20, 941.21, 941.327, 943.02,

943.06, 943.10, 943.23 (1g) or (2), 943.32, 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, 948.095, or 948.30 (2).

SECTION 9. 165.84 (7) (ab) 2. of the statutes, as affected by **2013 Wisconsin Act 214**, is amended to read:

165.84 (7) (ab) 2. A felony violation of s. 940.02, 940.03, 940.06, 940.07, 940.08, 940.09 (1c), 940.10, 940.19 (2), (4), (5), or (6), 940.195 (2), (4), (5), or (6), 940.20, 940.201 (2), 940.203 (2), 940.205 (2), 940.207 (2), 940.208, 940.23, 941.30, or 948.03 (3) or (5) (a) 4.

SECTION 10. 302.11 (1g) (a) 2. of the statutes is amended to read:

302.11 (1g) (a) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., or s. 940.02, 940.03, 940.05, 940.09 (1c), 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305 (2), 940.31 (1) or (2) (b), 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.06, 948.07, 948.08, or 948.30 (2).

SECTION 11. 343.12 (7) (c) 14m. of the statutes is created to read:

343.12 (7) (c) 14m. Engaging in repeated acts of physical abuse of the same child under s. 948.03 (5).

SECTION 12. 938.355 (2d) (b) 3. of the statutes is amended to read:

938.355 (2d) (b) 3. That the parent has committed a violation of s. 940.19 (3), 1999 stats., or s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) ~~or (3) (a)~~, or (5) (a) 1., 2., or 3., or 948.085 or a violation of the law of any other state or federal law, if that violation would be a violation of s. 940.19 (2), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) ~~or (3) (a)~~, or (5) (a) 1., 2., or 3. if committed in this state, as evidenced by a final judgment of conviction, and that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or in substantial bodily harm, as defined in s. 939.22 (38), to the juvenile or another child of the parent.

SECTION 13. 939.62 (2m) (a) 2m. b. of the statutes is amended to read:

939.62 (2m) (a) 2m. b. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m) or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., or s. 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.30 (2).

SECTION 14. 939.632 (1) (e) 1. of the statutes is amended to read:

939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

SECTION 15. 939.635 of the statutes is amended to read:

939.635 Increased penalty for certain crimes against children committed by a child care provider.

If a person commits a violation of s. 948.02, 948.025, or 948.03 (2) ~~or~~ (3), or (5) (a) 1., 2., 3., or 4. against a child for whom the person was providing child care for compensation, the maximum term of imprisonment for that crime may be increased by not more than 5 years.

SECTION 16. 939.74 (2) (c) of the statutes is amended to read:

939.74 (2) (c) A prosecution for violation of s. 948.02 (2), 948.025 (1) (e), 948.03 (2) (a) or (5) (a) 1., 2., or 3., 948.05, 948.051, 948.06, 948.07 (1), (2), (3), or (4), 948.075, 948.08, 948.085, or 948.095 shall be commenced before the victim reaches the age of 45 years or be barred, except as provided in sub. (2d).

SECTION 17. 939.74 (2) (cm) of the statutes is amended to read:

939.74 (2) (cm) A prosecution for violation of s. 948.03 (2) (b) or (c), (3) ~~or~~ (4), or (5) (a) 4. or 5., 948.04 or 948.07 (5) or (6) shall be commenced before the victim reaches the age of 26 years or be barred, except as provided in sub. (2d).

SECTION 18. 948.03 (5) of the statutes is created to read:

948.03 (5) **ENGAGING IN REPEATED ACTS OF PHYSICAL ABUSE OF THE SAME CHILD.** (a) Whoever commits 3 or more violations under sub. (2), (3), or (4) within a specified period involving the same child is guilty of the following:

1. A Class A felony if at least one violation caused the death of the child.
2. A Class B felony if at least 2 violations were violations of sub. (2) (a).
3. A Class C felony if at least one violation resulted in great bodily harm to the child.

4. A Class D felony if at least one violation created a high probability of great bodily harm to the child.

5. A Class E felony.

(b) If an action under par. (a) is tried to a jury, in order to find the defendant guilty the members of the jury must unanimously agree that at least 3 violations of sub. (2), (3), or (4) occurred within the specified period but need not agree on which acts constitute the requisite number.

(c) The state may not charge in the same action a defendant with a violation of this subsection and with a violation involving the same child under sub. (2), (3), or (4), unless the other violation occurred outside of the period applicable under par. (a). This paragraph does not prohibit a conviction for an included crime under s. 939.66 when the defendant is charged with a violation of this subsection.

SECTION 19. 973.0135 (1) (b) 2. of the statutes is amended to read:

973.0135 (1) (b) 2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m) or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s. 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.06, 948.07, 948.075, 948.08, or 948.30 (2).

SECTION 20. 973.015 (1m) (a) 3. a. of the statutes is amended to read:

973.015 (1m) (a) 3. a. A Class H felony, if the person has, in his or her lifetime, been convicted of a prior felony offense, or if the felony is a violent offense, as defined in s. 301.048 (2) (bm), or is a violation of s. 940.32, 948.03 (2) ~~or~~ (3), or (5) (a) 1., 2., 3., or 4. or 948.095.

SECTION 21. 973.017 (6) (b) of the statutes is amended to read:

973.017 (6) (b) When making a sentencing decision concerning a person convicted of a violation of s. 948.02 (1) or (2), 948.025 (1), 948.03 (2) ~~or~~ (3), or (5) (a) 1., 2., 3., or 4. or 948.051, the court shall consider as an aggravating factor the fact that the person was a person responsible for the welfare of the child who was the victim of the violation.